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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

R.H., a minor through guardian ad litem,
Sheila Brown, et al., No. 2:20-CV-1435-DMC

Plaintiffs,

V.

CITY OF REDDING, et al.,

Defendants.

No. 2:20-CV-1435-DMC

ORDER

18 Plaintiffs, who are proceeding with retained counsel, bring this civil action.

19 Pursuant to the written consent of all parties, this case is before the undersigned as the presiding
20 judge for all purposes, including entry of final judgment. See 28 U.S.C. § 636(c); see also ECF
21 No. 88 (order of reassignment). The parties appeared on June 30, 2023, at 10:00 a.m. via Zoom
22 for a trial confirmation hearing. John Taylor, Esq., and Neil Gehlawat, Esq., appeared for
23 Plaintiffs. Dale Allen, Jr., Esq., and Paul Goyette, Esq., appeared for Defendants. After
24 discussions with counsel, the Court makes the following orders and amends the June 1, 2023,
25 final pre-trial order accordingly.

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THE COURT ORDERS AS FOLLOWS:

1. Claims Remaining for Trial

In their trial brief submitted on June 27, 2023, ECF No. 83, Plaintiffs identify the following four claims remaining for trial: (a) 42 U.S.C. § 1983 based on use of excessive force in violation of the Fourth Amendment; (b) battery; (c) California's Bane Act; and (d) negligence. All other claims raised in the pleadings are deemed abandoned.

2. Commencement of Trial and Daily Trial Schedule

Pursuant to the agreement of the parties, the start date for the trial is advanced to July 10, 2023, at 9:30 a.m., in Courtroom 8 located in Sacramento, California. Subsequent days of the trial shall begin at 9:00 a.m. A mid-morning break of 15 minutes will occur at approximately 10:40 a.m. The Court will be in recess for lunch at approximately 12:00 p.m. The Court will reconvene for the afternoon session at 1:30 p.m. A mid-afternoon break of 15 minutes will occur at approximately 2:30 p.m. Each day of trial will conclude at approximately 4:30 p.m.

3. Number of Jurors and Jury Selection Process

This case will be tried before a jury of eight. The Court will begin the jury selection process by reading to the venire the parties' joint statement of the case. Sixteen members of the prospective jury pool will be called to sit in the jury box. The Court will then voir dire these prospective jurors. Once the Court completes its questioning, each side (i.e., one side consists of all plaintiffs and the other side consists of all defendants) will have 20 minutes to voir dire the panel. A side may divide their time in any way that side deems appropriate. During counsels' questioning, Court does not want previews of the case or descriptions of the issues as part of questioning.

Once questioning by the Court and counsel is complete, the Court will consider for-cause challenges. Such challenges will only be made to those prospective jurors in seats one through eight. For-cause challenges will be considered outside the presence of the prospective jurors. Once for-cause challenges have been resolved, each side will have a total of three peremptory challenges.

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No alternate jurors will be empaneled, and all jurors will participate in deliberation upon submission of the case.

4. Jury Instructions and Verdict Forms

The parties are directed to meet and confer and file by July 5, 2023, the following:

(a) their respective proposed jury instructions and verdict forms; and (2) any proposed joint jury instructions.

5. Stipulations

The parties are directed to meet and confer and file by July 5, 2023, all final stipulations.

6. Witnesses

Witnesses shall be available when called. The Court will accommodate witness appearances remotely via Zoom if necessary. Any party electing to have witnesses appear via Zoom shall be responsible for all necessary technology arrangements. If a side exhausts available witnesses and the other side does not stipulate to take its witnesses out of order, the side whose available witnesses have been exhausted will be deemed to have rested its case.

7. Exhibits

The parties shall prepare a joint exhibit binder and deliver three sets of that binder (one for the Court Clerk, which will be considered the originals, one for the witness stand, and one for the bench) to Courtroom 8 in Sacramento, California, by 8:30 a.m. on July 10, 2023. The joint exhibit binders shall be tabbed and be accompanied by an index cover page.

8. Motions in Limine

The Court is in receipt of three motions in limine from Plaintiffs, one from Defendant Kinneavy, and nine from the remaining defendants. Plaintiffs' Motion No. 3 seeking exclusion of evidence of tattoos on Mr. Hames' body and Mr. Hames' Facebook and other social media posts is granted as unopposed. To the extent Plaintiffs are seeking punitive damages, the remaining defendants' Motion No. 9 seeking bifurcation of the trial into separate phases for liability and punitive damages is granted and there shall be no reference to punitive damages during the liability phase of trial.

1 After discussing the Court's tentative rulings on the remaining motions with the
2 parties, the matter is set for a final hearing on motions in limine on July 6, 2023, at 8:30 a.m. via
3 Zoom. The parties may file briefs in opposition to remaining motions in limine by July 5, 2023.

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5 IT IS SO ORDERED:

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7 Dated: June 30, 2023



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9 DENNIS M. COTA
10 UNITED STATES MAGISTRATE JUDGE

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